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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/668,688	09/23/2000	Christopher Charles McCormick	Indigo I	4264
22897	7590	08/10/2005	EXAMINER	
DEMONT & BREYER, LLC			WARDEN, JILL ALICE	
SUITE 250			ART UNIT	
100 COMMONS WAY			PAPER NUMBER	
HOLMDEL, NJ 07733			1743	

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/668,688

**Applicant(s)**

MCCORMICK ET AL.

**Examiner**

Jill A. Warden

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 20 and 22-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20 and 22-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 4/20/05, with respect to the rejection(s) of claim(s) 20, 23, 24 and 26-28 under 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of De La Motte, et al. Applicant argues that CU does not provide for the purchase of chemicals through its database. Examiner disagrees. Examiner misinterpreted applicant's claim 20 and did not read that limitation into the claims. The rejection over CU has been vacated. However, a new reference has been applied.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 20, 24, 26, 28, 29, 31-34 and 36 are rejected under 35 U.S.C. 102(e) as being anticipated by De La Motte, et al.

De La Motte, et al. teach a system and method for the sale of goods through a trading network which interfaces buyers and suppliers. The interfacing data base also interfaces with an independent quality control monitoring organization which tests

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products from the suppliers and gives standardized ratings for those products (paragraphs [0021], [0027]). A prospective buyer makes an inquiry to the interfacing database specifying suitable specifications. The interfacing database takes the specifications and determines which suppliers have that product for sale. Once the suppliers are determined, those suppliers are given an opportunity, through the interface database, to submit a bid to the buyer (para. [0042-0044]). The final purchase transaction is also handled through the interface database.

With respect to claim 24, the product ratings are standardized by an independent monitoring organization.

With respect to claim 26, all data is stored in the database system, which stores the analysis for multiple products.

With respect to claims 29 and 32, the database system stores all transaction data also (para [0034]).

With respect to claim 36, the interface database allows the buyer opportunity to designate some specifications as being more important than others (para [0079]).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 22, 23, 25, 27, 30 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over De La Motte, et al.

De La Motte, et al. do not specifically teach:

Outputting statistics to a subscriber,

Pricing below a normal selling price,

Updating analysis data for a product, or

Specifying a range of values for the specifications.

De La Motte, et al. provide for compilation of statistics and dissemination of those statistics to its buyer and supplier subscribers. It would appear that membership to the service would avail you to the statistics. It would have been obvious to provide those statistics to any subscriber who has an interest in product trends, pricing, quality, etc.

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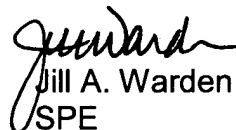
With respect to pricing, De La Motte, et al. teach that suppliers may bid for the right to sell to a buyer. It is conventional in the buying and selling process to meet or undercut your competitors price. It would have been obvious to one of ordinary skill in the art that suppliers in the database system would provide competitive pricing in order to win a prospective sale.

With respect to analysis updates to account for different batches, it would have been obvious to one of ordinary skill in the art that a supplier would need to update analysis of his product given a change in processing conditions which would change the rating of the product.

With respect to data supplied to the buyer, De La Motte, et al. does not provide for "white-washing" the data. That is, the product data supplied to the buyer does indeed include the name of the supplier. However, it is certainly within the abilities of the interface database system for the buyer to display only that information which is agreeable to him. It would have been obvious to one having ordinary skill in the art to omit product suppliers names from a list of bids in order to make a choice solely on product ratings, absent any prejudice to a particular supplier or brand.

### ***Conclusion***

Any inquiry concerning this communication should be directed to Jill A. Warden at telephone number (571) 272-1267.

  
Jill A. Warden  
SPE  
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